

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	
)	
v.)	CRIMINAL NO. 04-10060-RCL
)	
)	
GEORGE SCHUSSEL)	
_____)	

**DEFENDANT GEORGE SCHUSSEL'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF HIS MOTION FOR
JUDGMENT OF ACQUITTAL OR, IN THE ALTERNATIVE, A NEW TRIAL**

Now comes the defendant George Schussel and respectfully moves that this Honorable Court permit him to file a supplemental memorandum, which is being filed contemporaneously with this motion, in support of his Motion for Judgment of Acquittal Or, in the Alternative, a New Trial (Doc. #108).

As reason therefor, defendant states:

1. On February 1, 2007, he filed his Motion for Judgment of Acquittal Or, in the Alternative, a New Trial (Doc. #108). One of the central arguments advanced by Schussel was that the failure of the Court's instructions to provide the jury with the guidance essential to its full and fair consideration of the issues before it warranted the granting of a new trial in the interests of justice because the failure to instruct the jury as Schussel had requested, which included instructing the jury regarding Schussel's theories of defense, effectively denuded him of a defense and left the jury unable to properly assess the arguments of his counsel in his defense.

2. After the filing of that motion, which was required to be filed within seven days of the verdict, Schussel obtained a transcript of counsel's closing argument. That transcript was not

available to him when his Motion for Judgment of Acquittal Or, in the Alternative, a New Trial was filed.

3. Now, with the availability of that transcript, Schussel requests that this Court permit him to file a supplemental memorandum in which he will highlight for the Court portions of counsel's closing argument – arguments which lay at the heart of his defense – which he contends the jury, because of the Court's failure to instruct, lacked both the necessary foundation to evaluate and the essential understanding that the theories which counsel was advancing could provide a valid defense to the offense charged.

4. Counsel believes that this submission will assist the Court in its consideration and determination of the merits of Schussel's Motion for Judgment of Acquittal Or, in the Alternative, a New Trial.

LOCAL RULE 7.1(A)(2) STATEMENT

AUSA Jack Pirozzolo has informed counsel for defendant Schussel that the government does not oppose Schussel's filing of a supplemental memorandum.

Respectfully submitted,
By his attorneys,

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CERTIFICATE OF SERVICE

I, Martin G. Weinberg, hereby certify that on this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on February 12, 2007.

/s/ Martin G. Weinberg